

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

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UNITED STATES OF AMERICA,

Case No. 1:23-cv-00369-NRM-RML

Plaintiff,

-against-

RARE BREED TRIGGERS, LLC; RARE BREED FIREARMS, LLC; LAWRENCE DEMONICO; KEVIN MAXWELL,

Defendants.

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**DECLARATION OF DEFENDANT LAWRENCE DEMONICO**

I, Lawrence DeMonico, have personal knowledge of the following facts set forth below, and if called as a witness I would testify as follows:

1. I am the president of Rare Breed Triggers, LLC (“Rare Breed Triggers”).
2. The facts set forth in this declaration are based on my personal knowledge; knowledge obtained in my role as president of Rare Breed Triggers; and information from other individuals.,

**Rare Breed Triggers Decision to Ship WOTs Under Alternate Names Like “Red Barn Tools” or “Red Beard Treasures”**

3. In late 2022, Rare Breed Triggers obtained a large number of Wide Open Triggers (“WOTs”) that it was able to sell to its customers.
4. While Rare Breed Triggers had previously shipped FRT-15s it sold to its customers through UPS, we made the decision to ship the WOTs through USPS because the WOTs were a much less expensive product than the FRT-15 so we made the decision to also use a less expensive carrier.

5. Our experience with UPS was overwhelmingly positive. Our packages arrived reliably and would generally be hand-delivered and/or left in a nonvisible location specified by the customer. We insured the packages and had no trouble with submitting insurance claims to UPS when a package was lost, damaged, or there was another issue.

6. Our experience with USPS was the complete opposite. It is common for USPS to leave packages in the customers' unsecure mailbox or in a location plainly visible to individuals on the street. Further, insurance claims with USPS are a nightmare to resolve.

7. These practices by USPS exposed the packages we shipped to loss by theft. Because packages would often be left unattended in a visible location on a doorstep or in a mailbox on the street, it was easy for thieves (known as "porch pirates") to steal the packages. This was bad for the customer and expensive for us when we would send a replacement WOT.

8. Due to these issues with USPS's poor performance, I researched possible solutions to theft by porch pirates and came across a practice known as "discreet shipping." This a common practice in a number of industries, typically those that send high-value and/or sensitive goods. It involves sending items in packaging that does not disclose the seller or the contents inside. Discreet packaging can be plain and label-free, ambiguous about the contents, or portray the package as containing a completely different product from what is inside. The information I gathered primarily came from an article from the Easy Ship blog.<sup>1</sup>

9. Though I pulled details and ideas from other articles, the Easy Ship article was my primary reference point.

10. Based on the information I learned from my research, I developed the idea of using alternate names on our product packaging like "Red Barn Tools" or "Red Beard Treasures" to

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<sup>1</sup> Alexandra Ortolani, *The Ultimate Guide for Discreet Shipping*, Easy Ship (December 7, 2021), <https://www.easyship.com/blog/the-ultimate-guide-for-discreet-shipping>.

deter porch pirates and prevent product loss. This discreet shipping practice had the added benefit of protecting our customers' privacy by not revealing to their neighbors, etc., that a package left at their door was firearms related. This privacy issue was not previously a concern when we shipped through UPS for the same reason that theft was not an issue – UPS generally did not leave packages sitting out in public view or access.

11. At no point was our discreet shipping practice meant to interfere with or obstruct the ATF or any other government agency in any way. It was purely an economic and customer-service decision to protect the merchandise and the privacy of our customers. To that point, we used alternate names on the packaging that were based on Rare Breed Triggers' initials and used our business address. The name change on the packaging was a simple tool for deterring thieves and protecting privacy, and the names were deliberately chosen so customers and others familiar with Rare Breed Triggers would quickly realize the packages were from us.

12. I specifically chose not to implement a discreet shipping method for the small, low cost items like springs, screws, and other replacement parts that were sold through Rare Breed Firearms, LLC. As the replacement parts were so small and inexpensive, I did not have the same concerns and therefore did not feel as if the effort was necessary.

13. I have recently seen a beautifully executed example of discreet shipping in the firearms industry that I can share as an example for the court. While I happened to be at a friend's gun store one day earlier this month, a shipment of four Gensis Arms shotguns had been delivered by FedEx and simply left at his door. These specific shotguns are very high-end and have a retail value of approximately \$5,000 each. So with that said, he had approximately \$20,000 in shotguns sitting on the ground outside his door. The packaging they were delivered in indicated that they were brooms. Although the practice of discreet shipping in the firearms industry is quite

common, this is one of the best examples I have witnessed of discreet packaging to prevent product loss and preserve customer privacy. A picture of the packaging one of the shotguns arrived in is attached as Exhibit A.

#### **The “Out of Stock” Message for WOTs**

14. Our webpage for selling WOTs stated that they were “out of stock” at a time when we physically had WOTs in our possession due to how e-commerce platform work.

15. E-commerce platforms, including the one we used, generally work based on a “virtual shelf” that “contains” the seller’s inventory of items. On the sellers’ side of these platforms, they can indicate how many products they have ready for immediate sale on their “virtual shelf.” Being on the “virtual shelf” means that the product is completely ready for a customer to purchase it. It means that the seller is able to accept payment and send the product for fulfillment. The product is assembled, boxed, labeled, and ready to go. If there is any reason why an item is not ready to be sent out in return for payment, it is not considered to be “on the virtual shelf.”

16. When a seller tells the e-commerce platform that there are 1 or more of an item “on the virtual shelf,” the platform automatically reflects this on the webpage selling the item by indicating there are items “in stock.” Conversely, if the seller tells the platform that it has none of an item “on the virtual shelf,” the platform automatically reflects this on the webpage by indicating the item is “out of stock.”

17. With the WOTs, we had to tell our e-commerce platform that we had no WOTs “on the virtual shelf” because our payment processor, Chase Paymentech, dropped us as a client. And because we no longer had the ability to accept payment for the WOTs, they were not ready for sale and could not be considered “on the virtual shelf.”

18. The “out of stock” message on webpages like ours is a generic term used by e-commerce platforms to indicate that the item is not available for *any reason*. This is the standard for e-commerce platforms and applies to almost every website on the planet. It does not mean solely mean that the seller does not have the item physically in its possession. It can mean that the seller is out of boxes, out of tape, out of shipping labels, out of bubble wrap. A webpage for any specific product can display “out of stock” for many reasons but ultimately, it means that the seller cannot ship the item out for fulfillment, or, as in our case, cannot accept payment for it and therefore cannot ship the item out for fulfillment. Regardless of the particular cause, the item is “out of stock” for e-commerce purposes when the seller is unable to sell the item. Thus, our webpage indicated the WOT was “out of stock” because we could not accept payment for them.

Pursuant to 28 U.S.C. § 1746, I hereby declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on August 23, 2023.

By:

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Lawrence DeMonico

EXHIBIT A

